

44-350.J

Intentional Program Violation

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44-350.J.1
General

Intentional Program Violations (IPVs) are acts which disqualify a recipient from the CalWORKs and/or CalFresh programs for either a time-limited period or permanently. They may include:

- A false or misleading statement or misrepresentation, concealment, or withholding of facts; or
- Any act intended to mislead, misrepresent, conceal, withhold facts, or propound a falsity.

IPVs are determined by:

- Conviction of welfare fraud charges by a State or Federal court, including any determination made on the basis of a plea of guilty or nolo contendere; or
- An Administrative Disqualification Hearing (ADH) decision that finds an IPV occurred; or
- A recipient's waiver of an ADH, with or without an admission that the facts alleging an IPV are true.

IPVs from another state or out of county IPVs are to be used to disqualify recipients from cases in San Diego County.

Out of state or out of county IPVs are to be counted when determining whether to apply a first, second, or permanent disqualification.

44-350.J.2
Referral to
Public
Assistance
Fraud
Division
Responsibility

The County's Public Assistance Fraud Division (PAFD) shall be responsible for investigating any case of alleged IPV. PAFD may confer with the District Attorney in establishing criteria for prioritizing cases to be assigned for investigation and prosecution. In those cases in which it appears that clear and convincing evidence exists to substantiate the allegation of an IPV, PAFD shall file a request for a complaint with the District Attorney office.

44-350.J.3
IPV
Determination
and State Fair
Hearings

A recipient may request a state fair hearing on how an IPV disqualification is imposed but the finding of an IPV and the length of a disqualification period are not subject to state fair hearing appeals.

**44-350.J.4
Informing
Requirements**

Written notice of the disqualification penalties for IPV is required at the time of application and at renewal. To meet this requirement, Human Services Specialists (HSS) are to ensure that:

- All CalWORKs or CalWORKs/CalFresh applications include use of the SAWS 2A.
 - All CalWORKs or CalWORKs/ CalFresh renewals include use of the SAWS 2A.
 - All Non-Assistance CalFresh (NACF) applications and recertifications using the DFA form series include use of the DFA A-3 Coversheet.
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**44-350.J.5
Referral to
OSU**

An Intentional Program Violation (IPV) may be established through a court of appropriate jurisdiction, and Administrative Disqualification Hearing (ADH) or a Disqualification Consent Agreement.

Send referrals via e-mail to Overpayment Specialist Unit (OSU) at **HHSA, SDOverpaymentUnit**, stating in the subject line *'Request ADH Review'* and include the case name, case number and brief summary in the e-mail.

Do not refer if:

- Client over IRT < 3 consecutive months
- Cases with a one-month overpayment and no prior history of overpayment
- SSI Caretakers
- Excluded Person
- Undocumented Alien
- Fleeing Felon
- Earnings of a child unless prior overpayment involving same issue
- Overpayments calculated without verification

Assigned OSU staff are to evaluate recipient caused overpayments and/or IHE overissuances that have sufficient evidence of an IPV to submit a request to the state for an ADH to disqualify the recipient from receiving aid.

44-350.J.6
216 IPV
Notification -
Required
Action

The 216 IPV Notification form is a priority directive that requires follow-up action by the next work day after receipt. The 216 IPV is initiated by OSU and sent to the Family Resource Center (FRC) liaison. The FRC liaison is a Supervising Human Services Specialist (SHSS) designated by FRC management to have the lead responsibility for coordinating IPV actions with OSU. The FRC liaison must also monitor for FRC compliance with the 216 IPV instructions.

The 216 IPV informs the FRC of the effective date of disqualification (OSU will factor in the need for timely NOA), who the violator is, and the time period of the disqualification. NOTE: Ten days advance notice is required to discontinue a person for an IPV.

The reverse side of the 216 IPV contains specific instructions to take on both active and inactive cases/persons. HSSs can consult with the FRC liaison if they have questions on IPV procedures.

The 216 IPV requires certifying signatures by both the assigned HSS and a FRC supervisor that all IPV actions have been completed.

When all IPV actions have been taken, the 216 IPV shall be imaged in the case. The FRC shall send an email to Overpayment Specialist Unit (OSU) at **HHSA, SDOverpaymentUnit** within 5 work days.

44-350.J.7
Recipient
Fraud
Penalties

Permanent
Penalty

Fraud Occurred After January 1, 1998

All of the following penalties result from a conviction in a state or federal court, or Administrative Disqualification Hearing. Any resources and income of the disqualified individual are considered available to the AU.

Individuals who have been convicted for any of the following acts are disqualified on the first offense:

- Made fraudulent statements or representation regarding their place of residence, in order to receive assistance simultaneously, from two or more states or counties; or
- Submitted false documentation for nonexistent or ineligible children; or
- Received cash benefits in excess of \$10,000 through fraudulent means.

Individuals convicted of felony fraud, in a state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, for receipt or attempted receipt of cash aid benefits of \$5,000 or more.

Individuals with a third IPV conviction including:

- Making false or misleading statements, concealing, or withholding facts;
- Committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity;
- Submitting more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant, in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of aid.

44-350.J.8
Five Year
Penalty

- Individuals convicted of a felony fraud in a state or federal court, for theft of more than \$2,000, but less than \$5,000.

44-350.J.9
Four Year
Penalty

- Individuals who have been convicted for the second time for the submission of more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant, in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of aid.
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44-350.J.10
Two Year
Penalty

- Individuals convicted of felony fraud, in a state or federal court, for theft of \$2,000 or less.
 - Individuals who have been convicted for the first time, the submission of more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant, in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of aid.
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44-350.J.11
Twelve Month
Penalty

Individuals who have been convicted for the second time for any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing, or preventing a reduction in the amount of that aid:

- Making false or misleading statements or misrepresenting, concealing, or withholding facts;
 - Committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
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44-350.J.12
Six Month
Penalty

Individuals who have been convicted for the first time for any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing, or preventing a reduction in the amount of that aid:

- Making false or misleading statements or misrepresenting, concealing, or withholding facts;
- Committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

NOTE: Only the individual(s) convicted of committing the fraud is disqualified. If the person has been discontinued for another reason, the entire disqualification is to be served when the person is again active.

**44-350.J.13
Recipient
Fraud
Penalties –
Fraud
Occurred
Before
January 1,
1998**

Individuals found to have committed an IPV either through an Administrative Disqualification Hearing or by a court of appropriate jurisdiction are ineligible for cash aid benefits as follows:

- Six months for the first violation.
- Twelve months for the second violation.
- Permanently for the third violation.

Individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction, based on:

- Submitting more than one application for the same period of time and for the purpose of receiving more than one grant of aid; or
- Submitting documents for nonexistent children; or
- Submitting false documents for the purpose of showing ineligible children to be eligible for aid

Are ineligible for aid for the following time:

- Two years for the first violation.
 - Four years for the second violation.
 - Permanently for the third violation.
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44-350.J.14
Treatment of
Persons
Subject to
Fraud
Penalties

Situation	Action
<u>Person is Convicted Before July 1, 1998 - Sanction</u>	A person who is convicted before July 1, 1998, is sanctioned. The sanctioned person's AU is subject to mandatory vendor payment. The sanctioned person is not entitled to cash-linked Medi-Cal, and is not required to participate in Welfare-to-Work activities.
<u>Person is Convicted July 1, 1998 or later - Penalty</u>	<p>A person who is convicted on July 1, 1998, or later, is penalized. A penalized person remains in the AU. The penalized person's needs are not considered in the "Family" MAP or "AU" MAP when determining the AU's financial eligibility and grant levels. As an AU member, the individual will continue to receive cash-linked Medi-Cal, is required to participate in Welfare-to-Work activities unless exempt, and will have time on aid counted against the Time On Aid (TOA) limit. All income of the penalized individual will be used in the AU's eligibility and grant determination, and all appropriate income disregards are allowed.</p> <p>The needs of the penalized person are to be restored the first day of the month following the end of the penalty period</p>
<u>Sanctioned/Penalized Person Not on Aid</u>	If the AU or individual responsible for the IPV goes off of aid prior to imposing or during the penalty/sanction period, the penalty is suspended until the individual is found eligible for cash aid by joining another AU or reapplying at a later time. When imposing CalFresh penalties, the court's ruling in the <u>Garcia</u> court case applies (the penalty period begins immediately following the determination that a CalFresh IPV exists, and the penalty is not suspended even when the individual is not receiving CalFresh benefits).

44-350.J.15
Out of
County/Out of
State IPV
Notifications
Required
Actions

When notified by another county of an IPV for an active recipient, HSSs are to request documentation of the IPV finding and the overpayment/overissuance:

- Apply the disqualification as indicated by the other county.
- Begin recoupment of the overpayment/overissuance.
- When the overpayment/overissuance can no longer be recouped, refer the remaining balance to ORR.
- Identify the county of origin on the overpayment/overissuance referral, and attach the documentation from the other county.

When notified by another state of an IPV for an active recipient, HSSs are to request documentation of the IPV finding and the overpayment/overissuance:

- Apply the disqualification as indicated by the other state.
 - Do not recoup a CalWORKs overpayment from another state. No regulatory or fiscal authority currently exists.
 - Begin allotment reduction for the CalFresh overissuance.
 - When the overissuance can no longer be recouped, refer the remaining balance to ORR.
 - Identify the state of origin on the overissuance referral, and attach the documentation from the other county.
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